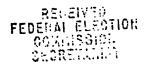
## AGENDA DOCUMENT #96-43



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## FEDERAL ELECTION COMMISSION Washington, DC 20463

AGENDA ITEM For Meeting of: APR 1 8 1996

April 9, 1996

**MEMORANDUM** 

TO:

The Commission

THROUGH: John C. Suring

**Staff Director** 

FROM:

Lawrence M. Nobl

General Counsel

N. Bradley Litchfield

Associate General Counsel

Michael Marinelli 🦏 🦏

**Staff Attorney** 

**SUBJECT:** 

**Draft AO 1995-49** 

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for April 18, 1996.

Attachment

Kurt Arbuckle, Treasurer Natural Law Party of Texas

Natural Law Party of78 Patti Lynn Lane

Houston, Texas 77024

Dear Mr. Arbuckle:

This refers to your letters dated March 4, 1996, and December 27, 1995, which
request advice concerning application of the Federal Election Campaign Act of 1971, as
amended ("the Act"), to the possible status of the Natural Law Party of Texas ("the Texas
Party") as a State Party committee of the Natural Law Party of the United States of

15 America ("the National Party").

You state that in Advisory Opinion 1992-30, the Commission confirmed that the National Party was a national committee as defined by the Act. It further confirmed the status of several state affiliates of the National Party as state party committees of the National Party. At the time of that opinion, you note that there was no state committee in Texas. However, on October 14, 1995, the Texas Party was established at a meeting in Austin, Texas.

You explain that party rules have been adopted and filed with the Texas Secretary of State. You state that the Texas Party is presently accepting and has received applications for nominations at its convention for both Federal and State offices. You state that the Texas Party has registered with the Texas Ethics Commission as a political

<sup>&</sup>lt;sup>1</sup>As documentation of the link between the Natural Law Party of Texas and the Natural Law Party of the United States of America, you have submitted a February 10, 1996 letter from the Party Chair of the National Party officially approving the rules of Texas Party. You also have submitted a copy of a check for \$500 that represents a contribution from the National Party which provided the Texas Party with its initial funding.

- party and has received financial support from the National Party. You also state that, in
- 2 preparation for the period starting in March 1996 when the Party can gain ballot access in
- 3 Texas, the Party is preparing to begin the necessary petition drives. Fundraising efforts to
- 4 support the petition drives are also being planned. You therefore ask whether this activity
- 5 qualifies the Texas Party as the State party committee of the National Party.
- 6 Under the Act and Commission regulations, the term "state committee" means the
- organization, which, by virtue of the bylaws of a political party, is responsible for the
- 8 day-to-day operation of such political party at the State level, as determined by the
- 9 Commission. See 2 U.S.C. §431(15) and 11 CFR 100.14.

In Advisory Opinion 1992-30, the Commission determined the elements necessary to qualify an organization as a state committee. The first requirement was the existence of a state affiliate agreement which "delineates activities commensurate with the day-to-day operation of the Natural Law Party on a state level." Advisory Opinion

- 14 1992-30.<sup>2</sup> The Commission then concluded that "To the extent the relationship between
- 15 the Natural Law Party and an affiliate is based on this agreement and the affiliate displays
- evidence of activity by obtaining ballot access for both its Presidential and other Federal
- candidates..., [that] particular affiliate is a State Committee of the Natural Law Party."
- 18 *Id*.

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<sup>&</sup>lt;sup>2</sup> That agreement is of specific relevance to this opinion since it governed the relationship between the Natural Law Party and any prospective affiliate. It required that a state affiliate "support the National Party and its goals." The text of the agreement required that the affiliate use its "best efforts" to assist the National Party's candidates, as well as the affiliates' own local candidates, in obtaining ballot access. The affiliate was further required to engage in voter registration drives, state conventions and to solicit contributions and nominate candidates for Federal and State office.

A copy of the Texas Party's rules have been submitted with your request. They 1. state that the primary purpose of the Texas Party is "to elect Natural Law Party 2 candidates to office, to achieve the objectives of the Natural Law Party at the national and 3 state levels, and to perform the functions set forth in the election laws of the State of 4 Texas." Party Rules, Article II. The rules also list the responsibilities of the Texas 5 Party's executive committee. These include: "raising and dispersing funds." and 6 "assisting and supporting candidate's fund-raising efforts." Party Rules, Article IV. 7 8 section F. The rules also contemplate the holding of State and local conventions. Party Rules. Article X. These provisions are compatible with the state party rules reviewed in 9 Advisory Opinion 1992-30 as they delineate "activity commensurate with the day-to-day 10 functioning operation of the Natural Law Party on a state level." Advisory Opinion 11 12 1992-30. However, a second element is that the State Party actually obtain ballot access for 13 the National Party's Presidential and other Federal candidates. While the request 14 materials clearly indicate that the Texas Party plans to seek and achieve such ballot 15 access, it has not yet done so. The information in your request indicates that under Texas 16 17 State Law, the period to gain 1996 ballot access begins in March, 1996. Therefore, the Commission concludes that the Texas Party is not, at the time of your request, a State 18 party committee of the National Party. The Commission, however, also concludes that 19 once the Texas Party does place the National Party's Presidential and other Federal 20

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**Enclosure (AO 1992-30)** 

1	candidates on the Texas ballot, it will become a State party committee of the National
2	Party. <sup>3</sup>
3	This response constitutes an advisory opinion concerning the application of the
4	Act, or regulations prescribed by the Commission, to the specific transaction or activity
5	set forth in your request. See 2 U.S.C. §437f.
6	Sincerely,
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8	
9	Lee Ann Elliott
10	Chairman

The Commission notes that at the time of its 1992 advisory opinion request, the National Party had listed 31 state affiliates registered with the Commission. Of those, the Commission concluded that only seven currently qualified as state committees of the National Natural Law Party. These seven had, at the time of the request, secured ballot access for the Natural Law Party's Presidential and Vice Presidential candidates in 1992, as well as other Federal candidates. The Commission notes that any person involved in a specific activity indistinguishable in all its material aspects from the activity described in an advisory opinion may rely on its conclusions. 11 CFR 112.5(a). Therefore, once it secures Federal candidate ballot access for the 1996 election cycle for at least one of its Congressional candidates, as well as the Party's Presidential and Vice Presidential candidates, the Texas Party need not reapply to the Commission for recognition of state committee status. It may rely on the conclusion reached in this opinion and in Advisory Opinion 1992-30. Similarly, any other affiliate of the Natural Law Party may also rely on the conclusions reached in these two opinions.